



Federal Communications Commission  
Washington, D.C. 20554

DEC 9 1996

The Honorable Slade Gorton  
United States Senator  
697 U. S. Court House  
West 920 Riverside Avenue  
Spokane, Washington 99201

Dear Senator Gorton:

Thank you for your letter dated October 25, 1996, on behalf of your constituent, Jim Pies. Mr. Pies expresses concern regarding the proposed use of competitive bidding procedures to award 800 MHz SMR licenses and its adverse affect on operators of smaller SMR systems. Mr. Pies also expresses concern regarding the activities of Nextel Communications (Nextel) in providing 800 MHz Specialized Mobile Radio (SMR) service. Specifically, Mr. Pies states that Nextel intends to replace its existing system with a new digital system that will require Mr. Pies to obtain new equipment at substantial cost.

On December 15, 1995, the Commission adopted a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144. The First Report and Order was adopted after consideration of extensive comments from all segments of the SMR industry, including comments from numerous small SMR operators. The Commission's decision also reflects months of work by Commission staff with SMR industry representatives in an effort to achieve consensus on key issues. As a result, the First Report and Order contains numerous provisions and proposals that are responsive to the concerns of existing SMR operators and those operating smaller systems, in particular. These include giving incumbent licensees greater flexibility within their existing service areas, allowing small businesses to pay auction bids in quarterly installments over the license term, and a proposal to designate the "lower 80" and General Category channels as an "entrepreneurs' block" for which only small businesses would be eligible. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is mandated by Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used. First, SMR licenses are used to provide service to subscribers for compensation, a precondition to auctionability under Section 309(j)(2)(A). Second, the Commission has concluded that auctions will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing alternatives such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is

auctionable), or "first-come, first-served" procedures. Finally, the statute does not distinguish between new services (such as Personal Communications Services (PCS)) and existing services in terms of whether initial licenses in a given service are auctionable.

Significantly, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations. While we recognize that the high level of existing licensing in the SMR service raises additional concerns, we believe auctions are an appropriate licensing mechanism in such an environment. First, auctions will only be used in the event that there are competing applications for the same license. Second, where auctions do occur, we have adopted special provisions, including installment payments, designed to ensure that small businesses are able to compete in the auction and in the provision of SMR service.

With regards to your concerns about Nextel, you should be aware that the Commission does not dictate the type of equipment to be used by SMR licensees. In light of the constant technological advances in mobile radio technology, we have found it preferable to allow licensees to freely adapt and upgrade their technology in response to customer demand rather than to impose rigid technical requirements by regulation. While we recognize that equipment changes may sometimes cause disruption to customers, the array of new services and technologies being introduced to the market will offer substantial public benefits. Nonetheless, we have received similar complaints from other small business customers of Nextel, and we have encouraged Nextel to work with these customers to achieve a mutually agreeable solution. To that end, we will forward a copy of Mr. Pies' letter to Nextel so that they may look into the matter further.

Additionally, we note that the Commission is also taking several steps to ensure that customers such as Mr. Pie have competitive and low-cost alternatives available to them if a given service provider raises rates or requires them to undergo an expensive equipment upgrade. For instance, in addition to 800 MHz SMR channels, there are channels in Mr. Pies' area allocated for land mobile radio services targeted to business, industrial, land transportation, and public safety uses. The Commission is also licensing land mobile radio service providers in the 900 MHz SMR service, and is conducting a rulemaking to increase capacity for mobile radio users on UHF frequencies. Finally, the Commission has recently allowed common carriers such as cellular licensees to enter the dispatch radio market, which

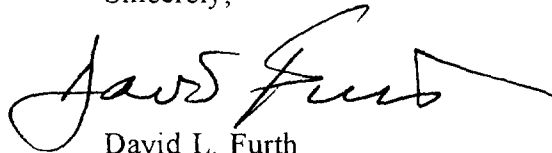
The Honorable Slade Gorton

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our regulations previously did not allow. With these changes in our rules, there are now many more licensees who are eligible to provide the type of low-cost mobile radio service that Mr. Pie seeks.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a stylized flourish extending from the end.

David L. Furth  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

# Congressional

referral to headquarters

*PAS  
auctions  
~~6267~~  
6267*

DATE: 10-28-96

TO: Louise Murphy, Mail Stop 1500

FM: Seattle Field Office

(Office)

Member of Congress: Senator Slade Gorton

Subject: Auctions & Effects on Small Businesses

*Original in mail to OLA.*

*[Signature]*  
PAS

Date rcvd by OBC \_\_\_\_\_

Date dlvr'd to OLA \_\_\_\_\_

Initials: \_\_\_\_\_



SLADE GORTON  
WASHINGTON

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# United States Senate

WASHINGTON, DC 20510-4701

51-97-60139  
COMMITTEES:

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LABOR AND HUMAN RESOURCES

October 25, 1996

Ms. Judy Bisso  
Public Affairs Specialist  
Federal Communications Commission  
11410 Northeast 122nd Way, Suite 312  
Kirkland, Washington 98034-6927

Dear Ms. Bisso:

I have been asked by my constituent, Mr. Jim Pies, to assist in the matter described in the enclosed correspondence. Mr. Pies would like an explanation of the auction process of radio frequencies and the effect they might have on small businesses. I am referring this inquiry to you for your consideration.

Please provide the necessary information in duplicate to the attention of my staff assistant Liz Wood in my Spokane office.

In advance, thank you for your prompt attention to this matter.

Sincerely,



SLADE GORTON  
United States Senator

FED'L COMM. COMMISSION  
DISTRICT #14

SG:xlw  
enclosure

OCT 28 1996

SEATTLE, WASHINGTON

SENATOR SLADE GORDON  
920 Riverside  
Spokane, WA 99201

10/22/96

Dear Senator Gordon,

I am writing to you trying to get an answer to a problem I have with the FCC. I will try to keep this problem short.

As you know the FCC has been offering radio frequencies in an auction process. One of the problems is that this is a discriminating process, for the small local business person looking to compete in a local market.

The other problem is that the FCC has frozen all types of license applications. Especially the ones that allow a business, to resell radio subscriber service. Yet a national company called Nextel, is allowed to either purchase, or license all available channels in almost all the United States.

What they are now doing is developing a high tech digital radio network. As they are building out this new technology, they are tearing down the existing systems. The problem is that the current radio users are being forced to merge onto this system, or be left without any radio service of any kind. As there are no other radio channels available to give them an alternate operating system

I would greatly appreciate a moment of your time to look at this problem, or direct me to someone that may be able give me some answers.

I feel my right of freedom of trade is being blocked . A monopoly of this type should not be allowed.

Sincerely Yours,



Jim Pies  
620 S. 71st Ave.  
Yakima, WA 98908  
(509)966-7106

cc: Commercial Wireless Division  
Dockets  
j:\9606267